incorporation laws reserved to the state the right to amend all charters granted by it and to alter or repeal all laws applicable thereto. *Held,* that the statute is valid, as within the reserved power of the state over its corporations. *State* v. *St. Mary's Franco-American Petroleum Company* (1905), — W. Va. —, 51 S. E. Rep. 865.

SANDERS, J., dissented on the ground that the reserved power to amend gives no right to pass an act which conflicts with the Federal Constitution, and that, as the statute in question deprived the defendant of its liberty and property without due process of law, it is unconstitutional. That the state cannot, either in the creation of corporations or in the amendment of their charters, withdraw them from the guaranties of the Constitution, is well settled. *Railroad Tax Cases,* 13 Fed. Rep. 722, 754; *Parrott's Chinese Case,* 6 Sawy, 349, 382. Vested rights cannot be taken away under such reserved power. *People* v. *O'Brien,* 111 N. Y. 1, 2 L. R. A. 255, 7 Am. St. Rep. 684, 2 WILGUS CORP. CASES, 1426; *City of Detroit* v. *Detroit & H. P. Road Co.,* 43 Mich. 140, 5 N. W. 275, 2 WILGUS CORP. CASES, 1458; nor can the fundamental character of the corporation be changed. *Zabriskie* v. *Hackensack & N. Y. R. Co.* 3 C. E. Green (18 N. J. Eq.) 178, 90 Am. Dec. 617, 2 WILGUS CORP. CASES, 1466; *Shields* v. *Ohio,* 95 U. S. 319, 24 L. Ed. 357. Subject to these limitations, however, the power may be exercised to almost any extent, to carry into effect the original purposes of the grant and to protect the rights of the public or of the corporation, its stockholders or creditors or to promote the due administration of the affairs of the corporation. *Looker* v. *Maynard,* 179 U. S. 46, 52, 45 L. Ed. 79. As the power of a corporation to appoint an agent is derived solely from its charter, any legislation that merely regulates or limits such capacity, is authorized by the reserved right of amendment, "when demanded by the public interest, though not to such an extent as to render it ineffectual or to substantially impair the object of the incorporation." *Leep* v. *St. Louis, I. M. & S. R. Co.,* 58 Ark. 407, 23 L. R. A. 264; *St. Louis, I. M. & S. R. Co.* v. *Paul,* 173 U. S. 404, 43 L. Ed. 746.

CORPORATIONS—CONSTITUTIONAL LAW—POOLS AND TRUSTS—FOREIGN INSURANCE COMPANIES.—Defendant, a Connecticut corporation, is being prosecuted for a violation of the Arkansas anti-trust law which subjects to certain penalties all corporations "conducting business in this state" that enter any trust to fix or regulate prices. The defendant admits it belongs to a trust formed in New York and that regulates rates outside of Arkansas but contends that as no attempt is made to fix or affect rates within the state the act does not apply. *Held,* that the statute renders unlawful the doing of business in Arkansas while a member of a trust *anywhere* to regulate prices *anywhere. Hartford Fire Insurance Company* v. *State* (1905), — Ark. —, 89 S. W. Rep. 42.

The court adopted the interpretation of the Attorney General that the essentials of the offense are (1) Membership in a trust to fix rates, and (2) Doing business in Arkansas. Two justices dissented, holding that the term "conducting business in this state" is mere *descriptio personarum;* that the Legislature could not have intended to make unlawful the mere innocent

doing of business within the state by a member of a trust that operates only without its jurisdiction, as such a law would be beyond the power of any legislative body. COOLEY CONSTITUTIONAL LIMITATIONS (7th ed.) 177 and cases cited. However, the act as thus interpreted is clearly valid, if the penalty is considered as imposed, not for the commission of an act without the state, but for failure to comply with the laws regulating its right to do business therein. For every state may prohibit foreign corporations from doing business within its borders unless they comply with the terms imposed upon them, whatever the motives of the state in imposing those terms may be, (*Doyle* v. *Continental Ins. Co.*, 94 U. S. 535, 24 L. Ed. 148; *Hooper* v. *California*, 155 U. S. 648, 39 L. Ed. 297), and may impose penalties upon such companies if they persist in doing business without complying with the conditions named. *Noble* v. *Mitchell*, 164 U. S. 367, 41 L. Ed. 472. A statute somewhat similar to that construed in the principal case was considered in *Carroll* v. *Greenwich Ins. Co.*, — U. S. —, 26 Sup. Ct. Rep. 66.

CRIMINAL LAW—WRITTEN INSTRUCTIONS TO JURY.—On the jury's returning into court to ask aid, the court orally told them that it was their duty to reconcile the evidence, and, if they could not reconcile it, to adopt "the most plausible theory of the evidence." Defendant objected to this; the court recalled the jury, re-stated what he had said, and added the doctrine of reasonable doubt. Defendant excepted, because he had requested written instructions which the statute thereupon made necessary. *Held*, with one dissent, that the oral remarks were not instructions but defined the province of the jury, and that if they were, the error in them was cured by correct instructions. *State* v. *Dewey* (1905), — N. C. —, 51 S. E. Rep. 937.

Statutes requiring written instructions are mandatory: to give any instructions orally, is error. *State* v. *Potter*, 15 Kan. 302, 314; *Stephenson* v. *State*, 110 Ind. 358, 375; *Ellis* v. *People*, 159 Ill. 337. The dissenting opinion seems the better in deeming the oral remarks to be instructions. *Dodd* v. *Moore*, 91 Ind. 522. And if the statute is mandatory, it is a bit inconsistent that erroneous oral remarks should be cured by other oral instructions; for under the statute an oral instruction is not cured by the written instructions that it accompanies, if prejudicial to the appellant. The cases cited to have such cure were unaffected by the statute. *State* v. *McNair*, 93 N. C. 631; *State* v. *Keen*, 95 N. C. 648.

DAMAGES—FRIGHT UNCONNECTED WITH PHYSICAL INJURY.—The shock of an explosion of dynamite by defendant so affected plaintiff's husband, sick with typhoid fever, that he died. *Held*, conceding for argument the defendant's negligence, that there can be no recovery. *Huston* v. *Borough of Freemansburg* (1905), — Pa. St. —, 61 Atl. Rep. 1022.

Pennsylvania stands squarely "on the ancient ways", refusing damages for fright or other mental suffering unconnected with physical injury, the court saying that to allow a recovery for "so intangible, so untrustworthy, so illusory, and so speculative a cause of action" would result in "great danger, if not disaster, to the cause of practical justice." It is well settled that damages for mere mental sufferings are given in the case of malicious prose-